

COMMENTS AND ARGUMENTS

Drawing Objection

Since the reference numeral "100" simply referred to the entire mechanism illustrated in Figure 4, the specification was amended to delete the reference numeral.

35 U.S.C. § 102(b)

Claims 1-8 have been rejected under 35 U.S.C. 102(b) as being anticipated by Bingham et al. (Patent No. 4,576,287). This rejection is traversed for the reasons set forth below.

Regarding claim 1, Bingham et al is cited as disclosing a roller switch comprising a roller (66), a flag arm (78) and a photoelectric detector (87), wherein the roller (66) is connected to the flag arm (78) and vertical movement of the roller causes the flag arm to move, and movement of the flag arm causes the photoelectric detector (87) to send a signal.

Applicants agree with this characterization of Bingham et al if, and only if, the term "connected" includes a connection established through several other means and not just a direct connection. The roller 66 is connected to the arm 78 through the arm 71, the second arm 72, and the shaft 67. There is no direct connection between the roller and the flag arm.

Bingham is also cited as the "roller switch being characterized by: a pair of flag arms (72 & 78), the roller (66) being mounted on a shaft (67) that extends between the pair of flag arms (Col 3, lines 17-54)."

This characterization of the machine of Bingham is strongly disagreed with by Applicant. The roller 66 is not mounted on shaft 67 as stated in the rejection. Roller 66 is mounted on axle 69, as clearly seen in Figure 4. Bingham discloses that the "Gauging wheel 66 is *carried* by a shaft 67" and explains the "carried" relationship as ""Wheel 66 is rotatively *mounted on* an axle 69 carried by an arm 71 which is rotatively mounted on shaft 67" (col 3, lines 17-21; emphasis added). The wheel 66 is *carried* by the shaft 67, as the entire thickness unit is mounted on a single bracket 68 and the end of the unit comprising elements 66, 69, 71, 72, 73, and 74 are not secured to the housing of the apparatus. The word "on" in the claim indicates there must be a direct connection or contact between the recited roller and the recited shaft. To identify the roller 66 of Bingham as being "on" the adjacent shaft 67 is akin to saying that the examiner is sitting on his desk when in actuality he is sitting on his chair in front of his desk because the adjacent chair and desk are connected to the floor.

As the claim language recites "the roller being *mounted on* a shaft" and Bingham

discloses that the wheel 66 is only carried by the shaft but is mounted on axle 69, it is clear that the relationship between the wheel 66 and the shaft 67 is not that recited or asserted in the office action. Bingham fails to teach or disclose the roller switch that is recited by Applicants.

Regarding claim 2, Bingham is cited as disclosing "that adjacent to the roller shaft (67) is a tube (38, i.e. elongated guide) that extends between both flag arms." This is pure conjecture in several ways. First, Bingham does not disclose the elongated guides as being a tube. The illustrated elongated guide may be a thick plate having a width sufficient to cover the full width of the transport belt 28. Second, with the rejection requiring the assumption that the rejection is referring to the guide 38 located to the right of the wheel 66 as illustrated in Figure 2, the guide 38 does not extend "between both flag arms" as recited. The flag arms of Bingham are identified as arms 72 and 78. While arm 78 is an "elongated" arm that extends back an appreciable distance, arm 72 does not extend any distance, and as seen in Figure 2, arm 72 does not even extend past the shaft of drive pulley 29. Though guide 38 is mounted on pivot links 39, permitting movement of the guide, there is no teaching that the guide, at only point in movement, is located adjacent arm 72. In fact, the guide 38 is more likely to hit arm 72 rather than end up in a position between the two arms 72, 78.

Regarding the rejection of claim 3, when read in correspondence with claim 1, the rejection itself is contradictory. The rejection of Claim 1 states that the roller 66 is "mounted on" shaft 67, while the rejection of claim 3 states the shaft 67 is "adjacent to" the roller 66. A roller cannot be both mounted on a shaft while being adjacent to the same shaft. This contradiction the above argument that the rejection of claim 1 is incorrect.

Claim 5 is rejected, stating "Bingham et al. shows in Fig. 4 that the roller switch is capable of pivoting about one end when mounted onto a support structure." This is also pure conjecture and an incorrect interpretation of the claim. The claim recites that the roller switch is capable of pivoting; the roller switch comprises the roller mounted on a shaft, a pair of flag arms, and the photoelectric detector. Thus, all of the elements, as a unit (since the claim recites it is the roller switch that pivots), must be capable of pivoting at one end when mounted onto a support structure. There is nothing in the teachings of Bingham that teaches or suggests that these elements, as a unit, is capable of pivot about one end as recited. These

elements as taught by Bingham are fixedly secured within the housing structure of the envelope sorter, though the individual elements are capable of independent movement at the disclosed locations. Should the examiner continue to maintain this rejection, a more detailed explanation of the teaching of Bingham in this respect is requested.

Claim 6, dependent upon claim 5, is also rejected based upon a suggestion to review Figure 4. There is nothing to suggest that the flat arms and the roller can be "fixedly raised" prior to pivoting the entire unit. Bingham discloses stop screws to adjust the spacing of the elements, but there is nothing which raises the roller and the arms in a fixed manner as recited.

Regarding claim 7, there are no teachings of a first and second end plate. Arguably, bracket 68 of Bingham might be considered an end plate - but there is only a single bracket disclosed not two as recited. Thus there is no second end plate that is further attached to a locking tube into which a locking pin is inserted. And again, the roller switch of Bingham, as a unit, does not have means to pivot about the first end plate. There is reference made to the stop screw 74 of Bingham as the locking pin; however, the claim recites that the locking pin is inserted into a locking tube located on the second end plate. Bingham fails to disclose a locking tube, and fails to disclose a second end plate - thus, no one reading Bingham would find that the stop screw 74 functions as the recited locking pin.

Regarding claim 8, Applicants are at a loss as to how the teachings of Bingham can even be applied to the recited claim, and how that rejection can be classified as anticipated under 35 U.S.C. § 102(b).

First and foremost, the claim recites a method for measuring the *length* of an article. Bingham is directed to measuring the thickness of an article. Bingham does NOT teach the step of "measuring the length of the material" as recited. There is not a single reference in the entire patent of Bingham which suggests measuring the length of the envelopes. To state that Bingham is directed to a method of measuring length is purely speculative. Were this the only failing of the rejection, then Bingham might be applicable for a 103 rejection, however, Bingham fails on other fronts, as discussed below.

Second, the elongated guide 38 of Bingham is again assumptively characterized as the recited tube when Bingham fails to teach that it is a tube. Again, this might relegate Bingham to a 103 rejection, but Bingham still continues to fail to meet all the claim

limitations as required under 102.

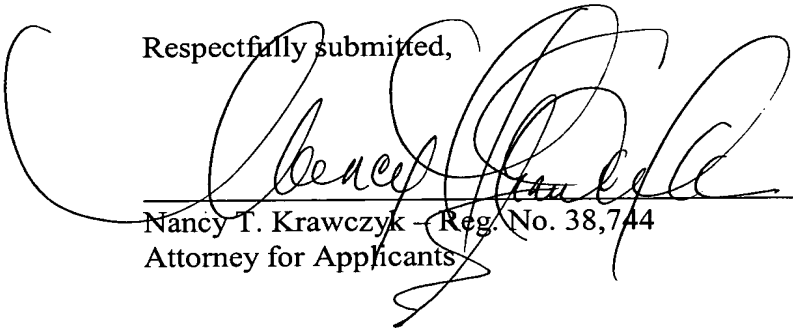
Third, and most damning to the rejection, after characterizing the guide 38 as the tube under which the material must pass prior to passing under the roller, then to meet the remainder of the claim language, the flag arm must pivot "about a shaft that extends through the tube." It can not be stressed any louder, *despite* the rejection that states it does, that the guide 38 fails to have ANY shaft extending through it about which the flag arm pivots. The guide 38 and the flag arms are Bingham are not even connected!

It is well established that in order for a reference to fully anticipate a claim under 35 U.S.C. § 102, as Bingham is applied herein, the reference must disclose each and every element of the claimed invention. Bingham fails to do so in numerous ways as pointed out above. The teachings of Bingham are in fact stretched to the point of incredulity in order to reject the claims.

As Bingham fails to disclose each and every element of the claims, it is requested that the rejection of the claims as being anticipated by Bingham et al. be withdrawn.

In light of the arguments set forth, Applicant believes the claims now pending in the subject patent application are in condition for allowance. The Examiner is respectfully requested to indicate allowability of all the pending claims.

Respectfully submitted,



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